



**MCI Telecommunications
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November 5, 1997

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Implementation of the Non-Accounting Safeguards of
Sections 271 and 272 of the Communications Act of 1934,
as amended, CC Docket No. 96-149

Dear Mr. Caton:

Today, Anthony C. Epstein and I, representing MCI Telecommunications Corporation (MCI), met with Carol Matthey, Sarah E. Whitesell, Joseph M. Di Scipio, Lisa C. Choi and Michael Kende of the Policy and Program Planning Division to discuss MCI's position as to reconsideration of the First Report and Order in the above-captioned proceeding. The discussion reiterated MCI's previously documented positions in this docket, particularly its Petition for Reconsideration and Reply in Support of its Petition for Reconsideration.

The attached document was used during the meeting and outlines the topics discussed. Two copies of this Notice and attachment are being submitted in accordance with Section 1.1206(a)(2) of the Commission's Rules.

Yours truly,

Frank W. Krogh
Frank W. Krogh

cc: Carol Matthey
Sarah E. Whitesell
Joseph M. Di Scipio
Lisa C. Choi
Michael Kende

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MCI ex parte in CC Docket No. 96-149 (November 5, 1997)

ISSUES ON RECONSIDERATION OF NON-ACCOUNTING SAFEGUARDS ORDER

I. SEPARATION REQUIREMENTS

A. Section 272 Affiliates Will Not be Operating Independently From BOCs as Required by § 272(b)(1) if They Provide Local Services Other Than by Resale.

- Provision of facilities-based local services would allow affiliates to become "preferred providers" of new, innovative local services to high volume customers, while BOCs' local services degrade and become technological backwater serving residential users and competitors.
 - Ameritech stated that 272 affiliates will develop new services "that would not be available if the affiliate were limited to the local exchange services ... offered by the BOC" and thus won't be offered by the BOCs to competitors.
- Such market segmentation will require constant, close coordination between BOC and affiliate, resulting in interdependent operations.
 - Michigan PSC found ACI not intended to compete with Ameritech; only a vendor/purchaser relationship.
 - Computer II prohibited competitive subs from operating their own transmission facilities for similar reasons.
 - Market segmentation and loophole will allow affiliates to offer, at predatory prices, unique packages of local and LD services not available through BOCs; use of affiliates' own facilities and UNEs will mask failure to impute.
- As monopoly incumbents, BOCs have obligations that they shouldn't be allowed to avoid by operating through local service affiliates, thereby opening up huge loophole to Sections 251 and 272.
 - Affiliate could request new UNEs from BOC not useful to others; BOC would also provide OIM for those facilities.
 - BOC allowed to transfer OSN, tailored to its own needs, to its affiliate.

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B. Commission Failed to Implement Separation Requirements in Other Ways.

- Joint R&D, development of new services for the affiliate by the BOC and joint admin services will result in close integration of BOC and affiliate operations.
- Such intertwined operations likely to result in discrimination, since other IXCs won't want identical services from the BOC, and determining whether, for example, a BOC is providing equivalent cooperation in developing new services for unaffiliated entities will be difficult, if not impossible.
- FCC rejected greater degree of separation on basis of nondiscrimination safeguards and other factors, but Congress required all those protections in tandem with independent operation and other separation requirements, so other factors can't substitute for such separation.
 - FCC wrong to balance statutory requirement of independent operations against efficiencies and other policy considerations not in statute.
- BOC provision of admin and other services to affiliate also undermines separate employee requirement of § 272(b)(3) (article about ACI being reduced to a shell).
- Nondiscrimination requirements in § 272(c)(1) and (e) don't imply joint operations by allowing BOC to provide certain services to affiliate, since separation necessary to measure discrimination.

II. REPORTING REQUIREMENTS

- A. Need local and access service quality reporting requirements to enforce nondiscrimination rules in § 272(c)(1), (e)(2) and (e)(4), not just (e)(1). Since FNPRM addresses only § 272(e)(1), it tentatively omitted service quality measures.
- B. Other safeguards cited as reasons for not imposing reporting requirements, such as § 271 applications, provide no justification; they depend on nondiscrimination reporting.